

## YOUR APPEAL - What Happens Next

The aim of this leaflet is to assist you through the next stages of the appeal process, now that your appeal has been forwarded to Her Majesty's Courts and Tribunals Service.

### **Completing the Enquiry Form**

The Enquiry Form sent with this leaflet asks you for information to help us take your appeal forward. **It is very important that you fill it in, sign it and return it to us.**

### **Returning the Enquiry Form**

**Please return the completed Form to us within 14 days.** A pre-paid envelope is provided. If you are unable to sort out a representative within that time, do not delay returning the Form. Just let us have your representative's details later. If you do not return the Form to us, the Tribunal may presume that you do not want to continue with your appeal.

### **When we receive your completed Enquiry Form**

What happens next depends on whether you have asked for a hearing or not. If you have said on the Form that you do not want a hearing, we will arrange for the appeal papers to be placed before the Tribunal for its decision. By "the appeal papers" we mean the bundle of documents sent to you by the department (or council) against whom you are appealing, plus any additional documents you send us with your completed Enquiry Form. We will not notify you of the date the papers go before the Tribunal, as your case will be directed to the next available Tribunal. We will then send you the Tribunal's written decision.

If you have said on the Form that you want a hearing, you need to begin preparing for the hearing, if you haven't already started. You should receive notification of the hearing date, in writing, as shown on the enclosed Enquiry Form covering letter.

When you receive the hearing notification letter and find that you can't attend on that date, you should tell us in writing straight away, so that we can make the necessary arrangements. For instance, if an interpreter has been booked, we can cancel that booking, enabling us to put another case to the hearing that day.

## **We need to know the following:**

### Question 1. Do you want to continue with your appeal or withdraw?

Some people change their mind after starting an appeal and for various reasons decide not to pursue it. Please bear in mind that the Tribunal cannot change the law. It has to apply the law as it stands, even if that leads to an outcome that you think unfair. Within those limits, the Tribunal has the power to change the decision you are appealing against with the decision it thinks ought to have been made. Sometimes this might leave you worse off. If you want to withdraw your appeal, just tick the box at Question 1, sign the Form at the end and return it to us. We will contact you no further.

### Question 2. How to continue with your appeal.

**If you want to continue with your appeal**, please tell us if you want to attend a hearing. You should then fill in the rest of the Form and sign and return it in the envelope provided. **You must do so within 14 days.**

A “hearing” means meeting the Tribunal, so that you and your representative, if you have one, can put your case in person. The advantage of a hearing is that you have an opportunity to speak to the Tribunal and the Tribunal has an opportunity to learn more about your case than it could gather from the appeal papers alone. Most people who appeal opt for a hearing. Statistically, more than twice as many appeals are successful with a hearing.

If you do not want a hearing, your appeal will still be decided by the Tribunal but on the basis of the appeal papers only. If there’s anything besides the information in the appeal papers you would like the Tribunal to take into account when making its decision, please send it with your completed Enquiry Form.

### Question 3. Representatives

The Enquiry Form asks you for the name of your representative, if you have decided to appoint one. Acting as a tribunal representative is a responsible job and you are only likely to get proper representation from a trained adviser from a reputable agency. A poor representative can actually damage your prospects of success. You are very welcome to bring someone along to the hearing if you just want ‘moral support’. There’s no need to give that person’s name on the Form.

### Question 4. Short notice

We will give you at least 14 days’ notice of the precise date and time. Sometimes we can arrange a hearing earlier, for example, to replace a cancellation. If you are willing to accept a hearing at short notice, please tick the box in reply to Question 4.

### Question 5. Availability

If you tick that you want a hearing, the Enquiry Form asks you about days of the week when you are regularly not available, so that we can try to avoid them when booking your hearing. For example, if you work part-time Thursdays and Fridays, please tell us on the Form.

### Question 6. Interpreter

If you need, or would prefer to have, the services of an interpreter at the hearing, we will arrange for an independent, professional interpreter. Using a friend or relative to interpret will not be acceptable.

### Question 7. Signer

If you need, or would prefer to have, the services of someone to sign for you at the hearing, we will arrange for an independent, professional signer. Using a friend or relative to sign will not be acceptable.

### Question 8. Special needs or other arrangements

Virtually all our hearing centres have good access for people with disabilities. If you want confirmation that the centre nearest to you is suitable to your own individual needs, please indicate your requirements on the Enquiry Form.

## **Preparing for Your Hearing**

The papers sent to you by the department (or council) you have appealed against set out the case, as they see it, and include the documentary evidence they are relying on in support of their decision. Do study those papers. You may disagree with the facts as presented by the department (or council). You may disagree with their understanding of the law. The job of the Tribunal is, of course, to establish what are the correct facts and how the law should be correctly applied.

You will want to consider what evidence you need to support your case, since most appeals involve some dispute over the facts. First and foremost, there is what you yourself can tell the Tribunal. Sometimes it is easy to overlook that what you say to the Tribunal is classed as “evidence”. Secondly, there is what others can tell the Tribunal. You could, for example, take along to the hearing one or more witnesses. Suppose your appeal concerns problems you have in looking after yourself because you are disabled: you may wish to bring along your carer to tell the Tribunal about the kinds of help you need. Thirdly, there is evidence in the form of a document. Suppose your appeal concerns the amount of savings you have: you may wish to produce bank statements covering the period in question.

If you do have documents you want to use in support of your case, please send them to us as early as possible. Do not wait until the hearing. Producing key documents at the last moment may result in the Tribunal adjourning the hearing, so that the Tribunal and the other side in the appeal can have a fair opportunity to consider that late evidence.

Please remember that it is your responsibility to obtain the evidence, including any evidence from your own doctor, you need to support your case. You cannot assume that the Tribunal will obtain that evidence for you.

If you want to look up the law on social security, you can find it on websites, such as [www.opsi.gov.uk](http://www.opsi.gov.uk), or [www.administrativeappeals.tribunals.gov.uk](http://www.administrativeappeals.tribunals.gov.uk). Or you may prefer to leave that to your representative. Her Majesty's Courts & Tribunals Service cannot research the law for you or supply you with copies.

## **The Hearing**

You can claim help towards the cost of travelling to your hearing. You will need to fill in a claim form, which the Tribunal clerk will give you after the hearing.

The Tribunal may consist of one, two or three members. Each member has a particular expertise – in law, medicine, disability or finance. The number and combination of members depends on the type of case and are set by law.

Tribunals are like courts, in that they are independent, operate within a set of rules laid down by law and reach decisions on the basis of evidence. However, they are less formal than courts, in that the hearing takes place around a table and the Tribunal will play an active part in the proceedings by asking questions to establish the facts of the matter.

Please remember that even if you have a representative, the Tribunal will almost certainly want to talk directly with you, person to person, asking you questions and listening to what you have to say. The best evidence comes from a person giving their own account in their own words.

Most appeal hearings last between half an hour and an hour. Usually the Tribunal will be able to announce its decision at the end of the hearing.

To get a copy of our free leaflet "How to Appeal" phone 08700 852611. If you are hard of hearing, you can dial Typetalk on 18001 08700 852611.

## **Getting Help**

Her Majesty's Courts & Tribunals Service is part of the Ministry of Justice. Our staff who look after the administrative side of appeals are called "Clerks to the Tribunal". They will handle your letters and telephone calls and deal with any queries about your appeal. What they cannot do is advise you whether you have a good case or not.

If you want advice about your case, or someone to help you present your case to the Tribunal, you should contact a Citizens' Advice Bureau, welfare rights service, advice centre, law centre, solicitor or your trade union. Please do not delay. Get advice at the earliest opportunity.

More information about the appeals process is available on our website [HM Courts & Tribunals Service](http://HM Courts & Tribunals Service). We can also send you, on request, our "How to Appeal" guide.